



January 13, 2003

United States Patent and Trademark Office
Office of Legislative and International Affairs
Room 902
2121 Crystal Drive
Arlington, VA 22202

Attention: Velica Steadman

Dear Ms. Steadman,

I am Steven Potash, President of the Open eBook Forum (www.openebook.org), and Founder and CEO of OverDrive, Inc. (www.overdrive.com). I am submitting the following comments in response to the Request for Written Comments dated December 3, 2002.

I request to testify at the hearing scheduled for February 4, 2003.

Introduction to the Open eBook Forum

The Open eBook Forum (www.openebook.org) is a non-profit standards and trade association comprised of over 60 publishing, technology, educational and government member companies. Founded in 1999 under the direction of NIST and Dr. Victor McCrary, it is now engaged in developing digital content standards for systems for trusted distribution and commerce for copyrighted works.

Introduction to OverDrive, Inc.

OverDrive, Inc. is a leading provider of technology services for the protection of digitized copyrighted works. The company operates the Content Reserve digital rights clearinghouse and distribution service (www.contentreserve.com) which provides copyright protection and Digital Rights Management (DRM) services for over 30,000 works from approximately 300 commercial publishers. OverDrive serves as the leading DRM service provider for a significant number of educational publishers and digital content providers in the United States, including divisions of McGraw-Hill, Scholastic, Princeton University Press, California University Press, John Wiley & Sons.

OverDrive also provides copyright protection services for digital works to many leading Internet college bookstores and educational websites in the United States, Canada, United Kingdom, and elsewhere. OverDrive is a world leader in the deployment of DRM for copyright protected digital textbooks, curriculum, study guides and associated works for student, distant learning, instructor curriculum, and various educational purposes.

Summary of Submitter Comments

In summary the submitter states that:

- (1) Competent technological protection systems have been implemented and are available for implementation to protect digitized content from infringement; and,
- (2) Submitter can describe and demonstrate industry-led copyright protection initiatives for distribution of protected digital works that has broad and open consensus and support; and,
- (3) Submitter can provide details of additional technological protection systems against infringement consistent with the comments requested by Congress.

(1) Competent technological protection systems have been implemented and are available for implementation to protect digitized content from infringement.

Submitter is involved with the development and deployment of technology services for the protection of commercial digital works. As it relates to the best practices now available for implementation, commercial deployment began on August 4, 2000 when online retail bookseller Barnesandnoble.com and 30 publishing houses launched its commercial digital bookstore. From this Internet website consumers have the ability to browse, select and purchase protected digital versions of leading academic, reference and popular copyrighted works. For authors, publishers and other copyright holders, this system and service was one of the first and most widely deployed implementations to protect digitally published content from infringement.

Integrated into the fulfillment service for delivery of the digital work is a series of technologies entitled “Digital Rights Management” or DRM. DRM is a combination of services and technologies that provide the suppliers of the content such as authors and publishers, the ability to establish the permissions to access the copyrighted digital works. DRM software working in conjunction with PC, PDA and other hardware devices, enforce those rights in that the technology applied to the digital work prevents unauthorized copying or other infringement.

Since 2000, submitter has been directly involved in the successful deployment of DRM implementations for protected digital works for: (1) major trade publishing houses (i.e. Simon & Schuster, Random House, HarperCollins, AOL Time Warner); (2) leading academic and educational publishers (i.e. Oxford University Press, Scholastic, Kluwer Academic Publishing, McGraw-Hill, Harvard Business School Press); (3) retail booksellers and online merchants (i.e. barnesandnoble.com, WHSmith Online, OfficeMax.com; and (4) academic, textbook and educational retailers and institutions (i.e. Follett Higher Education Group, Canadian Campus Retail Association, University of Phoenix). Submitter is capable of demonstrating the entire cycle of how a publication or other material are digitized, packaged for distribution, assigned digital rights and permissions, and the securely fulfilled to the consumer.

As a result of successful DRM applications, a growing universe of digital content producers are enabling broad distribution of electronic versions of their books, periodicals, reference works, textbooks, study guides and curriculum materials. The combination of the proliferation of digital works in popular software formats with available DRM services has enabled the market to develop a network of “trusted” online retailers. OverDrive, Inc. operates a digital rights clearinghouse that supplies the DRM fulfillment of digital works for thousands of deliveries each month where DRM technology is providing competent protection to copyrighted content.

Widely deployed electronic publishing and reading software with an associated DRM technology include Microsoft Reader, (Microsoft Corporation), Adobe Acrobat Reader (Adobe Systems, Inc.), Palm Reader (Palm Digital Media) among others. These formats permit online vendors and institutions to securely deliver digital works day to a growing array of personal computers, notebooks, Tablet PCs, PDAs and other mobile devices. Recent estimates bring the US digital book inventory to approximately 30,000 titles.

OverDrive deploys DRM technology to the digital works by operating a hosting center with server-based applications that perform the services associated with the file format that the content is packaged in. For PDF or Acrobat Reader documents or files, OverDrive licenses and operated Adobe Content Server as the DRM application. For Microsoft Reader eBooks of files, OverDrive utilizes Microsoft Digital Asset Server for DRM services. For documents packaged in Palm Reader, OverDrive operates Palm Digital Media DRM.

(2) Industry-led copyright protection initiatives for distribution of protected digital works

Forces driving initiatives for copyright protection include (1) the efforts of industry trade and standards body and (2) those of commercial interests developing a marketplace which permits the secure sale and fulfillment of digital content.

Since 1999 the Open eBook Forum (OeBF), leading hardware, software, publishing, digital rights technology companies have worked with government and educational leaders to promote standards and practices for the production and protection of digital works. Accomplishments to date include the publication of the Open eBook Publication Structure, which provides content owners a roadmap for developing digital repositories capable of being packaged in numerous formats for sale and DRM fulfillment to consumers. Information about OeBF and its activities is located at www.oebebook.org.

One of the chartered working groups within the OeBF is The Rights and Rules Working Group. Its mission is to create an open and commercially viable standard for interoperability of digital rights management (DRM) systems and to provide trusted transmission of electronic publications (ePublications) among rights holders, intermediaries, and users. An alliance with MPEG to coordinate our efforts for DRM standards has also been forged.

The OeBF Rights and Rules Working Group have performed multi-year research and analysis of industry requirements from various stakeholders to develop a framework for a broadly accepted set of standards for Digital Rights Management Systems. OeBF DRM requirement gathering has included input from leading publishing houses, libraries, the accessibility community, government, associations, technology vendors and educators. The Working Group worked for several months to review, aggregate, normalize and publish its findings to provide a roadmap to the technology and service industries developing systems and solutions for protecting digital content. Recent accomplishments also include review and recommendations on a rights expression language to serve as a common language for stakeholders to develop compatible solutions.

While industry standards and trade association activities progress, a digital marketplace with competent implementation of Digital Rights Management systems has emerged for copyrighted works. Both the commercial publishing communities and those reselling to consumers, corporations, institutions and students have come together to develop a DRM-enabled digital content marketplace at Content Reserve (www.contentreserve.com).

Content Reserve presently serves almost 500 digital content producers and distributors where over 35,000 digital works are packaged and fulfilled utilizing DRM. These include almost every major US publishing house, and dozens of institutions and retailers servicing education and academic markets. Recently Content Reserve announced that its DRM digital content marketplace will also supply academic, public and corporate libraries.

This DRM enabled marketplace has grown dynamically due to its use of the Internet and secure web services to permit each rights holder to self-manage its content and establish rights to the use of its work. Submitter is capable of demonstrating the use of Content Reserve and how it has implemented DRM for hundreds of content owners to permit competent protection for distributed digital works.

(3) Details of additional technological protection systems against infringement consistent with the comments requested by Congress

If provided an opportunity to present to the committee, submitter would demonstrate how the Digital Rights Management solutions described herein operate. This can be accomplished by submitter from his notebook PC with a combination of PowerPoint (slideshow) detailing the systems described and a live demonstration of the system in use if provided with a connection to the internet and projection system.

Please feel free to contact the undersigned for additional information or to arrange a presentation. Thank you.

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President
Open eBook Forum

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